

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

PERCY V. WILSON AND
PHYLLIS C. WILSON

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:05-cv-122 (DCB) (JMR)

AMERIQUEST MORTGAGE COMPANY

DEFENDANT

ORDER

This cause is before the Court on the defendant Ameriquest Mortgage Company's motion to dismiss or, in the alternative, for more definite statement **(docket entry 3)**. Having carefully considered the motion and response, and being fully advised in the premises, the Court finds as follows:

The defendant's motion seeks dismissal of the plaintiffs' fraud claim on the grounds that the complaint merely makes the conclusory allegation that the defendant "participated in behavior that constitutes actionable fraud." Complaint, ¶ VI. At the status conference held before Chief Magistrate Judge Roper on January 31, 2006, counsel for the plaintiffs announced that his clients were not pursuing a fraud claim against the defendant. In light of this representation, counsel for the defendant agreed that the motion to dismiss or for more definite statement is moot. Accordingly,

IT IS HEREBY ORDERED that the defendant Ameriquest Mortgage Company's motion to dismiss the plaintiffs' fraud claim or, in the alternative, for more definite statement **(docket entry 3)** is MOOT,

the fraud claim having been voluntarily dismissed by the plaintiffs.

SO ORDERED, this the 10th day of February, 2006.

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE